

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

CITY OF SOUTH BEND, BY ITS  
CORPORATION COUNSEL ALADEAN M.  
DEROSE.

Petitioner,

v.

UNITED STATES OF AMERICA, ERIC H.  
HOLDER, JR., IN HIS OFFICIAL CAPACITY AS)  
ATTORNEY GENERAL OF THE UNITED  
STATES, SOUTH BEND COMMON COUNCIL,  
TIM CORBETT, DAVE WELLS, STEVE  
RICHMOND, BRIAN YOUNG, AND SANDY  
YOUNG,

Respondents.

3:12-CV- 475-JVB-CAN

**THE SOUTH BEND COMMON COUNCIL'S OBJECTION TO JOINT MOTION FOR  
EXTENSION FO TIME TO FILE DISPOSITIVE MOTIONS**

Comes now South Bend Common Council, by counsel, and objects to any extension of time to file dispositive motions as set forth in the joint motion for extension of time filed by the City of South Bend. For the following reasons, the Court should deny the motion for extension of time because there has been no showing of good cause for modifying the existing order.

1. On February 12, 2013, this Court entered a scheduling order in which the discovery deadline as it relates to the Federal Wiretap Act was June 1, 2013. Discovery as to all other issues was stayed pending the Court's ruling on anticipated dispositive motions concerning the Federal Wiretap Act.
2. On April 16, 2013, the parties filed a joint motion for a 30 day extension of time within which to complete discovery.

3. On April 18, 2013, this Court granted the joint motion for extension of time and set the discovery deadline for discovery concerning the legality of the recorded phone conversation as that issue related to the Federal Wiretap Act as July 1, 2013. In the same order, this Court set the dispositive motion deadline concerning issues related to the Federal Wiretap Act for August 1, 2013.
4. Although there have been extensions of the dispositive motion deadline, there have been no requests, and no orders granting, an extension of time for discovery from July 1, 2013.
5. There has been more than adequate time to complete the deposition of Karen DePaepe since April 15, 2013.
6. There were no attempts to complete the deposition of Ms. DePaepe prior to the discovery deadline of July 1, 2013.
7. The South Bend Common Council is currently preparing to file its Motion for Summary Judgment on December 13, 2013.
8. The South Bend Common Council resisted consolidation of these cases because the issue involving the South Bend Common Council was a legal issue which could, and should, be resolved expeditiously without the South Bend Common Council becoming involved in protracted litigation. Unfortunately, that is exactly the position in which the South Bend Common Council now finds itself.
9. Given the fact that the discovery deadline passed more than five months ago, there is no cause for modifying this Court's scheduling order to extend the time for dispositive motions.

/s/Robert J. Palmer

E. Spencer Walton, Jr. (1000-71)

Robert J. Palmer (6316-71)

Attorneys for South Bend Common Council

**MAY • OBERFELL • LORBER**

4100 Edison Lakes Parkway, Suite 100

Mishawaka, IN 46545

Phone: (574) 243-4100

Fax: (574) 232-9789

rpalmer@maylorber.com

**CERTIFICATE OF SERVICE**

I certify that a copy of the forgoing was served upon all attorneys of record via the Court's ECF system on December 11, 2013

/s/Robert J. Palmer

Robert J. Palmer